K

1951

File No. B Town Planning/51
Legal Department—

B BRANCH

Subject:—

L.A. Bill No X of 1951

A Bill to amend the Bombay Town Planning Act, 1915

Bom Act. No XIX of 1951

125/E

File No. B Town Planning/51

Gen. 194 e.

743-B

Legal Department.

A revised draft Bill settled in consultation with the Consulting Surveyor to Government is sent herewith.

2. The subject-matter of the Bill falls under entries 5 and 18 in List II and entry 6 in List III in the Seventh Schedule to the Constitution. The Bill does not require any sanction or recommendation.

Id/-

11/1.

Additional Secretary to Government.

U.R. to L.S.G. & P.H.D., No. 861,

dated the 13th January

1951.

MSR.
7/7.

Legal Department.

Shri Pataskar, M.L.A. has raised the following three points in his speech on the Town Planning (Amendment) Bill :-

(1) That under section 44C proposed to be inserted in the Bombay Town Planning Act, the Arbitrator is given power to take possession of the land without paying any compensation,

(2) that the provision of section 44E proposed to be inserted only provide for the interest at the rate of 4 percent, and

(3) that the Arbitrator is given summary power for taking possession of the land which is required for the immediate need of the local authority.

He thinks that all the these three provisions are inconsistent with the provisions of article 31 of the Constitution.

The view taken by Shri Pataskar, M.L.A. is not correct.

2. As regards the first and second points, it may be observed that, as stated in the S.O.R. of Bill, the object of the Amending Bill is to expedite the earlier completion of a part of a town planning scheme undertaken by a local authority under the Act. Especially a difficulty was pointed out to the Government in the working of the Act that a scheme such as construction of roads, laying of the water supply mains, drainage, lighting etc. cannot be carried out before the final scheme is sanctioned. It is therefore provided in the Bill that in order to complete the works mentioned above,

a local authority should be in possession of the land (included in the preliminary scheme) so that it can start constructing the roads etc. even before the final scheme is sanctioned. Under section 30(3B) of the Act, an Arbitrator has been empowered to estimate the portions of the sums payable as compensation for each plot used, allotted, or reserved for public or municipal purpose which is beneficial partly to the owners or residents within the area of the scheme and partly to the general public, which shall be included in the costs of the scheme. Under clause (9) of section 30 of the Act, an Arbitrator is also empowered to estimate in reference with the claims made before him, the compensation to be paid to the owner of any property or right injuriously affected by the making of a town planning scheme in accordance with the provisions contained in section 21 and subject to the provisions contained in section 22. Under section 21 read with section 22, the owner of any property or right which is injuriously affected by the making of a town planning scheme is entitled to obtain compensation in respect thereof from the local authority or from any person benefitted or partly from the local authority and partly from such person. Sections 23 and 24 provide how the amount is to be payable to or by the owner of a plot and section 25 provides generally that all payments due to be made to any person by the local authority under the Act shall be made by adjustment in such person's account with the local authority in respect of plot concerned or any other plot in which he has an interest, and failing such adjustment shall be paid in cash etc.

3. It is thus clear that when any plot is included in the town planning scheme which has been sanctioned by the Government under section 14 and in respect of which an Arbitrator is appointed under section 29, the Arbitrator so appointed is to follow the procedure prescribed in the Act in calculating the contribution

payable by or to the holder of a plot or compensation payable to the person whose plot has been included in the scheme. Under section 32 of the Act the proposals of the Arbitrator in respect of contribution or compensation to be determined by him under the Act are to be forwarded to the President of the Tribunal of Arbitration for the decision of the Tribunal. Under section 37, the Tribunal is to decide finally the proposals of the Arbitrator in respect of matters under clauses (3B) and (9) of section 30 that is those pertaining to the compensation ~~xf~~ for each plot reserved for a public or municipal purpose or compensation to be paid to the owner of any property or right injuriously affected by the making of a town planning scheme. The Act itself provides for the compensation in respect of plots used or reserved for a public or municipal purpose. That scheme of the Act has not been interfered with by the present Bill. What section 44C of the Bill provides is that a local authority shall be entitled to the possession of any land which in included in a town planning scheme for the purpose of constructing roads, bridges, drainages etc. earlier than what it would be entitled to under the Act as it stands. The State Government also is to satisfy itself that the local authority requires the said land for the purposes specified. Sub-section (3) of section 44C to which Shri Pataskar has taken objection is closely on the lines of section 17 of the Land Acquisition Act, 1894, to~~r~~ which no objection has ~~been~~ taken as being inconsistent with the Constitution.* It may be observed that the lands in

* Cl. 5(2) See also ~~the~~ of the Requisitioning of Lands (continuance of powers) Act, 1947

in question are ultimately to vest in a local authority under section 42 of the Act but not before the final scheme is sanctioned by Government under section 40 of the Act. Under the Bill a new provision authorising the Arbitrator to prepare a preliminary scheme has been made. This scheme is to contin a provision regarding construction of bridges, roads, drainage etc. and it is to be proceeded with without observing the provisions of section 30 of the Act. The Bill, however, does not do away with such provision altogether but provides that they are to be complied with by the Arbitrator when the final scheme is sanctioned under section 40. The Arbitrator, is, therefore, bound to determine the amount of compensation, contribution etc. under section 30 in respect of plots included in the scheme irrespective of the fact whether the possession of some of the lands has been taken earlier under the new section 44C. As the owner of the land is to get compensation under the town planning scheme, the present Bill is concerned only with the provision of the payment of interestat 4% on the amount of compensation which will be payable to him under the Act. It will, therfore, be seen that owner is not deprived of the property without payment of compensation but that in addition to such compensation he is entitled to an interest at the rate of 4% from the date on which the possession of his property is taken by the local authority under the proposed new section 44C. It is specifically provided in section 44C(1) that the State Government is to satisfy itself that it is urgently necessary in the public interest to empower thelocal authority to enter on the land for the purpose of executing any of the work aforesaid i.e. construction of roads, bridges, etc. and then it has to direct the Arbitrator to take possession of the land and hand it over to the local authority. Such

land will be the land which is to be expected to be included in the final town planning scheme.

4. Shri Pataskar has misread the provisions of article 31(2) of the Constitution. Shri Pataskar seems to ~~agree~~ argue that compensation must be paid, before any property is acquired for the public purpose or taken possession of. Article 31(2) does not make the actual payment of the compensation befor possession is taken. The article merely provides that a law providing the acquisition or taking possession of any property should provide for the payment of compensation. That means that the law must contain a provision for the payment o compensation. It nowhere provides that compensation must be actually paid before possession is taken.

Shri Pataskar is also wrong when he states that the Bill contravenes clause (1) of article 31. That clause merely provides that there could not be deprivation of any person of his property except by the authority of law. In this case, the law actually provides for the possession and taking possession of the property and is not therefore inconsistent with the Constitution.

5. In section 47C which is proposed to be inserted by the Bill, it is further provided that if the local authority has not executed any works on the land for which the land was vested in the local authority under section 44C within the period fixed under sub-section (2) of the said section, the Arbitrator is to make or tender to t owner or the person interested in the land such

compensation for the damages, if any, done to the land as he may think reasonable and shall restore the land to the owner or person interested therein. The provisions of the Bill follow the wording of sections 17, 36 and 48 of the Land Acquisition Act, 1894.

There is no substance in the arguments urged by Shri Pataskar.

Id/-
14/3.

H.M. (L.S.G.)

MSR.
7/7.

No. 6323

Legal Department,

Bombay Castle (Bombay No.1),

20th April 851.

From

Shri J.R. Dhurandhar,
Secretary to the Government of Bombay,
Legal Department.

To

The Secretary to the Governor of Bombay.

Subject:- The Bmbay Town Planning (Amendment) Bill, 1951.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the autentic copy of the Bombay Town Planning (Amendment) Bill, 1951, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 27th and the 28th March 1951, respectively.

2. The subject-matter of the Bill falls under entries 5, 18 and 36 in List II and entry 6 in List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill (see section 44C) attract the operation of clause (2) of article 31 of the Constitution, it is necessary to reserve the Bill for the consideration of the President with reference to article 31(3) of the Constitution.

3. I also forward herewith six copies of each of the

		items
1.	Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	Nos. 1 and 2
2.	Bill as read for the third time and passed by the Bombay Legislative Council.	two copies
3.	Extracts from the proceedings of the Bombay Legislaive Assembly dated the 27th February and 26th and 27 th March 1951 and of the Bombay Legislative Council dated the 28th March 1951.	of item No. 3 of the

papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

Id/-

17/4.

Secretary to Government.

Through

The Secretary to the Government of Bombay,
Local Self Government and Public Health
Department.

MSR.

7/7.

No. G.S.- 1152

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to the Bombay Legislature
Department, Council Hall, Bombay 1.

GOVERNMENT HOUSE,

BOMBAY, 6 April 27, 1951.

Subject: The Bombay Town Planning (Amendment) Bill, 1951.

Sir,

With reference to the Bombay Town Planning (Amendment) Bill, 1951, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on March 27 and 28, 1951, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of the Bill (please see section 44 C) attract the operation of clause (2) of article 31 of the Constitution of India, it is necessary to reserve the Bill for the consideration of the President with reference to article 31(3) of the Constitution. His Excellency the Governor has accordingly been pleased, under article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully
Sd/- L.M. Nadkarni.
Secretary to the Governor of Bombay

.....

No. G.S.-1153.
Office of the Secretary to the Governo
Government House, Bombay 6,
April 27, 1951.

Copy forwarded with compliments to:-

(1) The Secretary to Government, Legal Department, with reference to his letter No. 6323, dated April 20, 1951;

(2) The Secretary to Government, Local Self Government and Public Health Department, with reference to his endorsement No. 4066/33/21669-M, dated April 24, 1951.

Id/-

Secretary to Governor.

MSR.
7/7.

No. G.S. 1360.

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to Government,
Legal Department.

GOVERNMENT HOUSE,
BOMBAY,
May 22, 1951,

Subject: The Bombay Town Planning (Amendment) Bill, 1951.

Sir,

With reference to the correspondence ending with your letter No. 7858, dated May 18, 1951, I am to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Town Planning (Amendment) Bill, 1951, on May 19, 1951.

Yours faithfully,
Sd/-
for Secretary to the Governor.

MSR.
7/7.

No. G.S.- 1393

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

To

The Secretary to Government,
Legal Department.

GOVERNMENT HOUSE,
BOMBAY,
May 25, 1951.

Subject: The Bombay Town Planning (Amendment) Bill, 1951.

Sir,

In continuation of my letter No. G.S.-1360, dated May 22, 1951, I am directed to forward herewith the authentic copy of the Bombay Town Planning (Amendment) Bill, 1951 with the Presidents' assent signified thereon.

Yours faithfully,
Sd/-
For Secretary to the Governor.

MSR.
7/7.

ACTS.
Publication of the
Bombay Town Planning (Amendment) Act,1951.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 8305,
Bombay Castle,
26th May 1951.

Letter to the Secretary to the Governor, No. 6323, dated the 20th April 1951.

Letter from the Secretary to the Governor, No. G.S. 1360, dated the 22nd May 1951.

"With reference to the correspondence ending with your letter No. 7858, dated May 18, 1951, I am to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Town Planning (Amendment) Bill, 1951, on May 19, 1951".

RESOLUTION:- The law should be published as Bombay Act No. XIX of 1951, in the Bombay Government Gazette dated the 26th May 1951.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Local Self Government and Public Health Department.

By order of the Governor of B'bay
Sd/- S.L. Chaudhari,
Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies to the Local Self Government and Public Health Department.

* The Local Self Government and Public Health Department, } with a copy of
The Oriental Translator to Government } the Act.
The Bombay Legislature Department
The Director of Publicity, Bombay,
The Enquiry Officer for the Secretariat, Bombay.

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* with four extra copies of the Act.

L. A. BILL No. X OF 1951.

A Bill to amend the Bombay Town Planning Act, 1915.

(As read for the third time and passed by the Legislative Assembly on the 27th March 1951.)

(As read for the third time and passed by the Legislative Council on the 28th March 1951.)

Bom. I of 1915. WHEREAS it is expedient to amend the Bombay Town Planning Act, 1915, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Bombay Town Planning (Amendment) Act, 1951.

MO-III Bk Hb 3—1

Amendment of section 2 of Bom. I of 1915.

2. In section 2 of the Bombay Town Planning Act, 1915 (hereinafter referred to as the said Act),— Bom. I of 1915.

(*1*) before clause (*a*), the following clause shall be inserted, namely :—

"(*1a*) 'land' includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth ; "

(*2*) after clause (*d*), the following clause shall be inserted, namely :—

"(*dd*) 'preliminary scheme' means a scheme relating to a town planning prepared by the arbitrator under section 44B ; ".

Insertion of new Chapter IVA in Bom. I of 1915.

3. After Chapter IV of the said Act, the following new Chapter shall be inserted, namely :—

"CHAPTER IVA.

Splitting of schemes into sections and preliminary schemes.

Powers of arbitrator to split draft scheme into separate sections.

44A. After an arbitrator has been appointed under section 29, the local authority may apply to him to split up the draft scheme into different sections and to deal with each section separately as if each section were a separate draft scheme. The arbitrator may, after making such inquiry as he thinks fit, split the draft scheme into sections. Thereafter the provisions of the Act and the rules made thereunder shall, so far as may be, apply to each of such sections as if it were a separate draft scheme.

Arbitrator to prepare preliminary scheme.

44B. If a draft scheme or if any of such sections contains any of the following works—

(*i*) construction or alteration of bridges,
(*ii*) roads, open spaces, gardens and recreation grounds,
(*iii*) drainage, inclusive of sewage, surface drainage and sewage disposals,
(*iv*) water-supply,
(*v*) any other work which in the opinion of the arbitrator is for a public purpose,

the arbitrator shall, on the application of the local authority, prepare in regard to such scheme or section in the prescribed manner a preliminary scheme in accordance with the provisions of section 30 :

Provided that it shall not be necessary for the arbitrator at this stage to exercise the powers referred to in clauses (*3*), (*3A*), (*3B*), (*3C*), (*3D*), (*4*), (*5*), (*6*), (*7*), (*9*) and (*10*) of section 30.

Power to hand over possession of land required for bridges, roads, etc.

44C. (*1*) Where a local authority thinks that, in the interest of the public, it is necessary to undertake forthwith any of the works referred to in section 44B and included in a preliminary scheme, the local authority shall make an application through the arbitrator to the State Government to vest in it the land shown in the preliminary scheme.

(*2*) The State Government, if satisfied that it is urgently necessary in the public interest to empower the local authority to enter on the land for the purposes of executing any of the works aforesaid, may direct the arbitrator by notification in the

Official Gazette to take possession of the land and may also fix the period during which the execution of the said works shall be completed :

Provided that the period so fixed may for sufficient reasons be extended from time to time.

(*3*) The arbitrator shall then give a notice in the prescribed manner to the person interested in the land the possession of which is to be taken by the arbitrator requiring him to give possession of his land to the arbitrator or any person authorised by him in this behalf within a period of one month from the date of the notice and if no possession is delivered within the period specified in the notice, the arbitrator shall take possession of the land and shall hand over the land to the local authority. Such land shall thereupon, notwithstanding anything contained in section 40, vest absolutely in the local authority free from all incumbrances.

Commissioner or Magistrate to enforce surrender of land if not delivered.

44D. (*1*) If the arbitrator is opposed or impeded in taking possession of the land under section 44C, he shall request, in Greater Bombay, the Commissioner of Police, and elsewhere, the District Magistrate to enforce the surrender of the land to the arbitrator. The Commissioner or the District Magistrate, as the case may be, shall take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the notice.

(*2*) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (*1*) includes the power to enter upon any land or other property whatsoever.

Owner of land of which possession is taken entitled to interest.

44E. The owner of the land, the possession of which is taken by the arbitrator under section 44C or 44D shall be entitled to an interest at the rate of 4 per cent. per annum on the amount of compensation payable to him under the Act in respect of the said land from the date on which such possession is taken till the date on which the final scheme in which such land is included comes into force or till the land is restored to the owner under section 47C, as the case may be.

Application of Chapter to pending schemes.

44F. Notwithstanding anything contained in the foregoing provisions of this Chapter, it shall be lawful to any local authority to apply to the arbitrator for the splitting of any pending scheme into sections or for the preparation of a preliminary scheme in respect thereof, and on such application being made, the aforesaid provisions shall, so far as may be, apply to such scheme.

Explanation.—For the purposes of this section, a pending scheme shall mean a scheme in respect of which a declaration of its intention to make a scheme has been made by a local authority under sub-section (*1*) of section 9 before the date on which the Bombay Town Planning (Amendment) Act, 1951, comes into force, but in respect of which the final scheme has not been forwarded to the State Government for sanction under section 40.".

Bom. of 1951.

Insertion of new sections 47B and 47C in Bom. I of 1915.

4. After section 47A of the said Act, the following sections shall be inserted, namely :—

Delegation of certain powers of local authority and Joint Town Planning Board.

"47B. (*1*) A local authority may by order in writing direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by the Chief Officer or any such officer of the local authority as may be specified in the direction.

(*2*) A Joint Town Planning Board may, by order in writing, direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by such officer of any local authority as the Joint Town Planning Board may specify in the direction.

Compensation for land vested in local authority under section 44C and restoration of such land in certain cases.

47C. (*1*) If the local authority has not executed any works on the land for which the land was vested in the local authority under section 44C within the period fixed under sub-section (*2*) of the said section, the arbitrator shall make or tender to the owner or the person interested in the land, such compensation for the damage, if any, done to the land as he may think reasonable and shall restore the land to the owner or person interested therein.".

Amendment of section 52 of Bom. I of 1915.

5. In section 52 of the said Act, after clause (*n*) of sub-section (*2*), the following clauses shall be inserted, namely :—

"(*na*) the manner of preparing a preliminary scheme under section 44B ;

(*nb*) the manner of giving notice under section 44C.".

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. X OF 1951.]

(As read for the third time and passed by the Legislative Assembly on the 27th March 1951.)

(As read for the third time and passed by the Legislative Council on the 28th March 1951.)

A Bill to amend the Bombay Town Planning Act, 1915.

[Shri G. D. VARTAK, M.L.A.]

MC-III Bk Hb 3—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

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The
Bombay Government Gazette
PUBLISHED BY AUTHORITY

SATURDAY, 26TH MAY 1951.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

PAGES

BOMBAY ACT No. XIX OF 1951—An Act to amend the Bombay Town Planning Act, 1915. 71–74

The following Act of the Bombay Legislature having been assented to by the President on the 19th May 1951 is hereby published for general information.

J. R. DHURANDHAR,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XIX OF 1951.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 26th May 1951.)

An Act to amend the Bombay Town Planning Act, 1915.

Bom. I of 1915. WHEREAS it is expedient to amend the Bombay Town Planning Act, 1915, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Bombay Town Planning (Amendment) Act, 1951.

Amendment of section 2 of Bom. I of 1915.

2. In section 2 of the Bombay Town Planning Act, 1915 (hereinafter referred to as the said Act), — Bom. I of 1915.

(*1*) before clause (*a*), the following clause shall be inserted, namely :—

"(*1a*) 'land' includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth ;"

(*2*) after clause (*d*), the following clause shall be inserted, namely :—

"(*dd*) 'preliminary scheme' means a scheme relating to a town planning prepared by the arbitrator under section 44B ;".

Insertion of new Chapter IVA in Bom. I of 1915.

3. After Chapter IV of the said Act, the following new Chapter shall be inserted, namely :—

"CHAPTER IV-A.

Splitting of schemes into sections and preliminary schemes.

Powers of arbitrator to split draft scheme into separate sections.

44A. After an arbitrator has been appointed under section 29, the local authority may apply to him to split up the draft scheme into different sections and to deal with each section separately as if each section were a separate draft scheme. The arbitrator may, after making such inquiry as he thinks fit, split the draft scheme into sections. Thereafter the provisions of the Act and the rules made thereunder shall, so far as may be, apply to each of such sections as if it were a separate draft scheme.

Arbitrator to prepare preliminary scheme.

44B. If a draft scheme or if any of such sections contains any of the following works—

(*i*) construction or alteration of bridges,
(*ii*) roads, open spaces, gardens and recreation grounds,
(*iii*) drainage, inclusive of sewage, surface drainage and sewage disposals,
(*iv*) water supply,
(*v*) any other work which in the opinion of the arbitrator is for a public purpose,

the arbitrator shall, on the application of the local authority, prepare in regard to such scheme or section in the prescribed manner a preliminary scheme in accordance with the provisions of section 30 :

Provided that it shall not be necessary for the arbitrator at this stage to exercise the powers referred to in clauses (*3*), (*3A*), (*3B*), (*3C*), (*3D*), (*4*), (*5*), (*6*), (*7*), (*9*) and (*10*) of section 30.

Power to hand over possession of land required for bridges, roads, etc.

44C. (*1*) Where a local authority thinks that, in the interest of the public, it is necessary to undertake forthwith any of the works referred to in section 44B and included in a preliminary scheme, the local authority shall make an application through the arbitrator to the State Government to vest in it the land shown in the preliminary scheme.

(*2*) The State Government, if satisfied that it is urgently necessary in the public interest to empower the local authority to enter on the land for the purposes of executing any of the works aforesaid, may direct the arbitrator by notification in the

Official Gazette to take possession of the land and may also fix the period during which the execution of the said works shall be completed:

Provided that the period so fixed may for sufficient reasons be extended from time to time.

(*3*) The arbitrator shall then give a notice in the prescribed manner to the person interested in the land the possession of which is to be taken by the arbitrator requiring him to give possession of his land to the arbitrator or any person authorised by him in this behalf within a period of one month from the date of the notice and if no possession is delivered within the period specified in the notice, the arbitrator shall take possession of the land and shall hand over the land to the local authority. Such land shall thereupon, notwithstanding anything contained in section 40, vest absolutely in the local authority free from all incumbrances.

Commissioner or Magistrate to enforce surrender of land if not delivered.

44D. (*1*) If the arbitrator is opposed or impeded in taking possession of the land under section 44C, he shall request, in Greater Bombay, the Commissioner of Police, and elsewhere, the District Magistrate to enforce the surrender of the land to the arbitrator. The Commissioner or the District Magistrate, as the case may be, shall take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the notice.

(*2*) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (*1*) includes the power to enter upon any land or other property whatsoever.

Owner of land of which possession is taken entitled to interest.

44E. The owner of the land, the possession of which is taken by the arbitrator under section 44C or 44D shall be entitled to an interest at the rate of 4 per cent. per annum on the amount of compensation payable to him under the Act in respect of the said land from the date on which such possession is taken till the date on which the final scheme in which such land is included comes into force or till the land is restored to the owner under section 47C, as the case may be.

Application of Chapter to pending schemes.

44F. Notwithstanding anything contained in the foregoing provisions of this Chapter, it shall be lawful to any local authority to apply to the arbitrator for the splitting of any pending scheme into sections or for the preparation of a preliminary scheme in respect thereof, and on such application being made, the aforesaid provisions shall, so far as may be, apply to such scheme.

Explanation.—For the purposes of this section, a pending scheme shall mean a scheme in respect of which a declaration of its intention to make a scheme has been made by a local authority under sub-section (*1*) of section 9 before the date on which the Bombay Town Planning (Amendment) Act, 1951, comes into force, but in respect of which the final scheme has not been forwarded to the State Government for sanction under section 40.".

Bom. XIX of 1951.

Insertion of new sections 47B and 47C in Bom. I of 1915.

4. After section 47A of the said Act, the following sections shall be inserted, namely :—

Delegation of certain powers of local authority and Joint Town Planning Board.

"47B. (*1*) A local authority may by order in writing direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by the Chief Officer or any such officer of the local authority as may be specified in the direction.

(*2*) A Joint Town Planning Board may, by order in writing, direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by such officer of any local authority as the Joint Town Planning Board may specify in the direction.

Compensation for land vested in local authority under section 44C and restoration of such land in certain cases.

47C. (*1*) If the local authority has not executed any works on the land for which the land was vested in the local authority under section 44C within the period fixed under sub-section (*2*) of the said section, the arbitrator shall make or tender to the owner or the person interested in the land, such compensation for the damage, if any, done to the land as he may think reasonable and shall restore the land to the owner or person interested therein.".

Amendment of section 52 of Bom. I of 1915.

5. In section 52 of the said Act, after clause (*n*) of sub-section (*2*), the following clauses shall be inserted, namely :—

"(*na*) the manner of preparing a preliminary scheme under section 44B ;

(*nb*) the manner of giving notice under section 44C.".

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(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 26th May 1951.)

An Act to amend the Bombay Town Planning Act, 1915.

Bom. I of 1915. WHEREAS it is expedient to amend the Bombay Town Planning Act, 1915, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Bombay Town Planning (Amendment) Act, 1951.

Amendment of section 2 of Bom. I of 1915.

2. In section 2 of the Bombay Town Planning Act, 1915 (hereinafter referred to as the said Act), — Bom. I of 1915.

(*1*) before clause (*a*), the following clause shall be inserted, namely:—

"(*1a*) 'land' includes benefits to arise out of land and things attached to the earth or permanently fastened to any thing attached to the earth;"

(*2*) after clause (*d*), the following clause shall be inserted, namely :—

"(*dd*) 'preliminary scheme' means a scheme relating to a town planning prepared by the arbitrator under section 44B;".

Insertion of new Chapter IVA in Bom. I of 1915.

3. After Chapter IV of the said Act, the following new Chapter shall be inserted, namely :—

"CHAPTER IV-A.

Splitting of schemes into sections and preliminary schemes.

Powers of arbitrator to split draft scheme into separate sections.

44A. After an arbitrator has been appointed under section 29, the local authority may apply to him to split up the draft scheme into different sections and to deal with each section separately as if each section were a separate draft scheme. The arbitrator may, after making such inquiry as he thinks fit, split the draft scheme into sections. Thereafter the provisions of the Act and the rules made thereunder shall, so far as may be, apply to each of such sections as if it were a separate draft scheme.

Arbitrator to prepare preliminary scheme.

44B. If a draft scheme or if any of such sections contains any of the following works—

(*i*) construction or alteration of bridges,
(*ii*) roads, open spaces, gardens and recreation grounds,
(*iii*) drainage, inclusive of sewage, surface drainage and sewage disposals,
(*iv*) water supply,
(*v*) any other work which in the opinion of the arbitrator is for a public purpose,

the arbitrator shall, on the application of the local authority, prepare in regard to such scheme or section in the prescribed manner a preliminary scheme in accordance with the provisions of section 30 :

Provided that it shall not be necessary for the arbitrator at this stage to exercise the powers referred to in clauses (*3*), (*3A*), (*3B*), (*3C*), (*3D*), (*4*), (*5*), (*6*), (*7*), (*9*) and (*10*) of section 30.

Power to hand over possession of land required for bridges, roads, etc.

44C. (*1*) Where a local authority thinks that, in the interest of the public, it is necessary to undertake forthwith any of the works referred to in section 44B and included in a preliminary scheme, the local authority shall make an application through the arbitrator to the State Government to vest in it the land shown in the preliminary scheme.

(*2*) The State Government, if satisfied that it is urgently necessary in the public interest to empower the local authority to enter on the land for the purposes of executing any of the works aforesaid, may direct the arbitrator by notification in the

Official Gazette to take possession of the land and may also fix the period during which the execution of the said works shall be completed :

. Provided that the period so fixed may for sufficient reasons be extended from time to time.

(*3*) The arbitrator shall then give a notice in the prescribed manner to the person interested in the land the possession of which is to be taken by the arbitrator requiring him to give possession of his land to the arbitrator or any person authorised by him in this behalf within a period of one month from the date of the notice and if no possession is delivered within the period specified in the notice, the arbitrator shall take possession of the land and shall hand over the land to the local authority. Such land shall thereupon, notwithstanding anything contained in section 40, vest absolutely in the local authority free from all incumbrances.

Commissioner or Magistrate to enforce surrender of land if not delivered.

44D. (*1*) If the arbitrator is opposed or impeded in taking possession of the land under section 44C, he shall request, in Greater Bombay, the Commissioner of Police, and elsewhere, the District Magistrate to enforce the surrender of the land to the arbitrator. The Commissioner or the District Magistrate, as the case may be, shall take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for securing compliance with the notice.

(*2*) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-section (*1*) includes the power to enter upon any land or other property whatsoever.

Owner of land of which possession is taken entitled to interest.

44E. The owner of the land, the possession of which is taken by the arbitrator under section 44C or 44D shall be entitled to an interest at the rate of 4 per cent. per annum on the amount of compensation payable to him under the Act in respect of the said land from the date on which such possession is taken till the date on which the final scheme in which such land is included comes into force or till the land is restored to the owner under section 47C, as the case may be.

Application of Chapter to pending schemes.

44F. Notwithstanding anything contained in the foregoing provisions of this Chapter, it shall be lawful to any local authority to apply to the arbitrator for the splitting of any pending scheme into sections or for the preparation of a preliminary scheme in respect thereof, and on such application being made, the aforesaid provisions shall, so far as may be, apply to such scheme.

Explanation.—For the purposes of this section, a pending scheme shall mean a scheme in respect of which a declaration of its intention to make a scheme has been made by a local authority under sub-section (*1*) of section 9 before the date on which the Bombay Town Planning (Amendment) Act, 1951, comes into force, but in respect of which the final scheme has not been forwarded to the State Government for sanction under section 40."

Bom XIX of 1951.

Insertion of new sections 47B and 47C in Bom. I of 1915.

4. After section 47A of the said Act, the following sections shall be inserted, namely :—

Delegation of certain powers of local authority and Joint Town Planning Board.

"47B. (*1*) A local authority may by order in writing direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by the Chief Officer or any such officer of the local authority as may be specified in the direction.

(*2*) A Joint Town Planning Board may, by order in writing, direct that all or any of the powers conferred on it by sections 15, 42 and 43 shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by such officer of any local authority as the Joint Town Planning Board may specify in the direction.

Compensation for land vested in local authority under section 44C and restoration of such land in certain cases.

47C. (*1*) If the local authority has not executed any works on the land for which the land was vested in the local authority under section 44C within the period fixed under sub-section (*2*) of the said section, the arbitrator shall make or tender to the owner or the person interested in the land, such compensation for the damage, if any, done to the land as he may think reasonable and shall restore the land to the owner or person interested therein.".

Amendment of section 52 of Bom. I of 1915.

5. In section 52 of the said Act, after clause (*n*) of sub-section (*2*), the following clauses shall be inserted, namely :—

"(*na*) the manner of preparing a preliminary scheme under section 44B ;

(*nb*) the manner of giving notice under section 44C.".

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